

Federal Operating Permit
Article 1

This permit is based upon the requirements of Title V of the Federal Clean Air Act and Chapter 80, Article 1 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. Until such time as this permit is reopened and revised, modified, revoked, terminated or expires, the permittee is authorized to operate in accordance with the terms and conditions contained herein. This permit is issued under the authority of Title 10.1, Chapter 13, §10.1-1322 of the Air Pollution Control Law of Virginia. This permit is issued consistent with the Administrative Process Act, and 9 VAC 5-80-50 through 9 VAC 5-80-300 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution of the Commonwealth of Virginia.

Authorization to operate a Stationary Source of Air Pollution as described in this permit is hereby granted to:

Permittee Name:	Conectiv Delmarva Generation, Inc.
Facility Name:	Bayview Peaking Station (Cheriton)
Facility Location:	Route 684 (South of Route 641) Bayview, Northampton County

Registration Number:	40602
Permit Number:	TRO-40602

September 7, 2006

Effective Date

September 6, 2011

Expiration Date

Francis L. Daniel, Regional Director
Department of Environmental Quality

July 5, 2006

Signature Date

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I. Facility Information

Permittee

Conectiv Delmarva Generation, Inc.

P.O. Box 6066

Newark, DE 19714

Responsible Official

Mr. Albert F. Kirby III

Senior Vice President

Facility

Bayview Peaking Station (Cheriton)

Route 684 (South of Route 641)

Bayview, Northampton County

Contact Person

Mr. M. Gary Helm

Senior Environmental Coordinator

(302) 451-5077

gary.helm@conectiv.com

County-Plant Identification Number: 51-131-00008

Facility Description: NAICS 221112 – Fossil Fuel Electric Power Generation

Conectiv Delmarva Generation's Bayview Peaking Station provides peak electric power through the operation of six internal combustion engines, each with a nominal electric generation capacity of two (2) megawatts (MW), two (2) 50,000 gallon #2 distillate fuel oil storage tanks, six (6) 380 gallon lubrication oil storage tanks, and one (1) internal combustion engine generator set for emergency backup power to operate telecommunications equipment.

II. Emission Units

Equipment to be operated consists of:

Emission Unit ID	Stack ID	Emission Unit Description	Size/Rated Capacity*	Manufacturer and Date of Construction
BV10	ST10	Internal Combustion (I.C.) Engine Generator Set No. 1	21.0 MMBTU/hr nominal (2 MW nominal output)	General Motors (GM)/MP-36. October 1963.
BV20	ST20	Internal Combustion (I.C.) Engine Generator Set No. 2	21.0 MMBTU/hr nominal (2 MW nominal output)	General Motors (GM)/MP-36. October 1963.
BV30	ST30	Internal Combustion (I.C.) Engine Generator Set No. 3	21.0 MMBTU/hr nominal (2 MW nominal output)	General Motors (GM)/MP-36. October 1963.
BV40	ST40	Internal Combustion (I.C.) Engine Generator Set No. 4	21.0 MMBTU/hr nominal (2 MW nominal output)	General Motors (GM)/MP-36. October 1963.
BV50	ST50	Internal Combustion (I.C.) Engine Generator Set No. 5	21.0 MMBTU/hr nominal (2 MW nominal output)	General Motors (GM)/MP-36. October 1963.
BV60	ST60	Internal Combustion (I.C.) Engine Generator Set No. 6	21.0 MMBTU/hr nominal (2 MW nominal output)	General Motors (GM)/MP-36. 1976.

*The Size/Rated capacity is provided for informational purposes only, and is not an applicable requirement.

III. I.C. Engine Generator Requirements – (BV10-BV60)

A. Limitations

1. **Fuel** - The approved fuels for the six (6) internal combustion engines BV10-BV60 is distillate oil. Distillate oil is defined as fuel oil that meets the specifications for fuel oil numbers 1 or 2 under the American Society for Testing and Materials, ASTM, “Standard Specification for Fuel Oils.” A change in the fuels may require a permit to modify and operate.
(9 VAC 5-80-110)
2. **Fuel Specifications** - The maximum sulfur content of the oil to be burned in the six (6) internal combustion engines BV10-BV60 shall not exceed 0.5% by weight per shipment.
(9 VAC 5-80-110)
3. **Visible Emission Limits** - Visible Emissions from each of the six (6) engine generator stacks (ST10-ST60) shall not exceed twenty (20) percent opacity except during one six-minute period in any one hour in which visible emissions from five (5) of the engine generator stacks (ST10-ST50) shall not exceed sixty (60) percent opacity or thirty (30) percent opacity from engine generator stack ST60. This condition applies to emission units BV10-BV60 at all times except during start-up, shutdown, or malfunction. Failure to meet the requirements of this condition because of the presence of water vapor shall not be a violation of this condition. Compliance with the visible emission standards shall be demonstrated by proper operation and maintenance of the emission units, periodic visual emission observations, and by associated recordkeeping.
(9 VAC 5-50-80, 9 VAC 5-40-80 and 9 VAC 5-80-110)

B. Monitoring

1. **Combustion Temperature Monitoring** – The source shall use combustion gas temperature monitoring, telemetry, and alarm notification systems to maintain efficient combustion during all manned and unmanned operating periods, to minimize the likelihood of excessive visible emissions from emission points ST10-ST60.
(9 VAC 5-40-100 and 9 VAC 5-50-100)

2. **Visible Emission Evaluations** – The permittee shall observe each of the six (6) internal combustion engine generator stacks, ST10 - ST60, in accordance with 40 CFR 60 Appendix A, Method 9. The visible emission evaluation shall be performed with the following frequency:

Total Engine Operating Hours in a Calendar Year	Minimum Number of Required Observations the Following Calendar Year
≤ 3000	1 per Engine
> 3000	2 per Engine

(9 VAC 5-40-110)

3. **Fuel Certification** - The permittee shall obtain a certification from the fuel supplier with each shipment of distillate oil. Each fuel supplier certification shall include the following:
- The name of the fuel supplier,
 - The date on which the oil was received,
 - The volume of distillate oil delivered in the shipment,
 - A statement that the oil complies with the American Society for Testing and Materials specifications for fuel oil numbers 1 and 2, and
 - The sulfur content of the oil.

(9 VAC 5-80-110)

C. Recordkeeping

- To minimize the duration and frequency of visible emissions due to malfunctions or abnormal operation of process equipment or air pollution control equipment, the permittee shall:
 - Develop a maintenance schedule and maintain records of all scheduled and non-scheduled maintenance.
 - Maintain an inventory of spare parts that are needed to minimize durations of air pollution control equipment breakdown.

These records shall be available on site for inspection by the DEQ and shall be current for the most recent five (5) years.

(9 VAC 5-50-50, 9 VAC 5-40-50 and 9 VAC 5-80-110)

2. The permittee shall maintain records of all emissions data and operating parameters necessary to demonstrate compliance with this permit. These records shall include, but are not limited to:
 - a. Type and sulfur content of fuel combusted in the six (6) internal combustion engines BV10-BV60, as received from the supplier;
 - b. Operating hours per calendar year of the six (6) internal combustion engines BV10-BV60, updated monthly;
 - c. Sulfur dioxide (SO₂) emission rate, in lb/hr, demonstrated by:
 - (1) Quarterly calculations for the following calendar year, when fuel sulfur content in any delivery exceeds 0.5%, by weight; and
 - (2) Annual emissions inventory statements submitted to the Department and/or through periodic calculations/information that the Department may request to validate these data.
 - d. A record of each visible emissions observation and visible emissions evaluation, including any data required by 40 CFR 60 Appendix A, Method 22 or Method 9, whichever is appropriate; and at a minimum, the date, time, name of the emission unit, the applicable visible emissions requirement, the results of the observation, and the name of the observer; and
 - e. A record of combustion gas temperature monitoring alarms that indicated the potential for excess visible emissions during remote operations.

These records shall be available on site for inspection by the DEQ and shall be current for the most recent five (5) years.

(9 VAC 5-50-50, 9 VAC 5-40-50 and 9 VAC 5-80-110)

IV. Insignificant Emission Units

The following emission units at the facility are identified in the application as insignificant emission units under 9 VAC 5-80-720:

Emission Unit No.	Emission Unit Description	Citation	Pollutant(s) Emitted (9 VAC 5-80-720 B)	Rated Capacity (9 VAC 5-80-720 C)
BV100 and BV101	Two (2) #2 Fuel Oil Storage Tanks	5-80-720 B.2	VOC	50,000 gal. (installed prior to 1984)
BV110–BV115	Six (6) #2 Fuel Oil Storage Tanks	5-80-720 B.2	VOC	120 gal. each
BV120–BV125	Six (6) Lube Oil Storage Tanks	5-80-720 B.2	N/A	380 gal. each
BV200	One (1) Emergency Generator	5-80-720 C.4	PM ₁₀ , SO ₂ , NO _x , CO, VOC	<1 mmBTU/hr heat input

These emission units are presumed to be in compliance with all requirements of the federal Clean Air Act as may apply. Based on this presumption, no monitoring, recordkeeping, or reporting shall be required for these emission units in accordance with 9 VAC 5-80-110.

V. Permit Shield & Inapplicable Requirements

Compliance with the provisions of this permit shall be deemed compliance with all applicable requirements in effect as of the permit issuance date as identified in this permit. This permit shield covers only those applicable requirements covered by terms and conditions in this permit and the following requirements which have been specifically identified as being not applicable to this permitted facility:

Citation	Title of Citation	Description of Applicability
40 CFR 60 Subpart Kb	NSPS for Volatile Organic Storage Vessels	Fuel oil storage tanks BV100, BV101 and day tanks BV110-BV115 were installed prior to the 1984 applicability date. Tanks BV120-BV125 are exempt from this standard based on size.
9 VAC 5 Chapter 40, Article 4	Emission Standards for General Process Operations	Article 4 of Chapter 40 of the state regulations does not apply to internal combustion engines BV10-BV60 because they do not meet the definition that Rule 4-4 is intended to cover which is primarily process equipment (i.e. furnaces, ovens, and kilns).
9 VAC 5 Chapter 40, Article 8	Emission Standards for Fuel Burning Equipment	Article 8 in Chapter 40 of the state regulations does not apply to internal combustion engines BV10-BV60 because the rule excludes internal combustion engines from its definition of “fuel-burning equipment”.

9 VAC 5 Chapter 40, Article 37	Emission Standards for Petroleum Liquid Storage and Transfer Operations	Article 37 in Chapter 40 of the state regulations does not apply to storage tanks BV100, BV101, BV110-BV115, and BV120-BV125. Fuel oil vapor pressure in tanks BV100, BV101, and BV110-BV115, and lubrication oil in tanks BV120-BV125, are below the article's applicability threshold of 1.5 psia for any liquid in service by a storage tank.
9 VAC 5 Chapter 50, Article 4	Standards of Performance for New and Modified Stationary Sources	9 VAC 5-50-280 requires BACT as reflected in any conditions placed on the permit approval for new or modified emissions unit. BV60 was installed in 1976, and not modified after the rule effectiveness date of August 3, 1979. Furthermore, BV60 was exempt from new source review (NSR) by a 1972 NSR regulation, as amended in 1975, based on a de minimus capacity of the unit (less than 3000 hp). 9 VAC 5-50-290 to 390, covering visible emissions, dust, odor, toxics, compliance, testing, monitoring, notification, records and reporting, registration, maintenance and malfunction, and permitting of new and modified sources, also do not apply until the unit is modified.

Nothing in this permit shield shall alter the provisions of §303 of the federal Clean Air Act, including the authority of the administrator under that section, the liability of the owner for any violation of applicable requirements prior to or at the time of permit issuance, or the ability to obtain information by the administrator pursuant to §114 of the federal Clean Air Act, (ii) the Board pursuant to §10.1-1314 or §10.1-1315 of the Virginia Air Pollution Control Law or (iii) the Department pursuant to §10.1-1307.3 of the Virginia Air Pollution Control Law.

(9 VAC 5-80-140)

VI. General Conditions

A. Federal Enforceability

All terms and conditions in this permit are enforceable by the administrator and citizens under the federal Clean Air Act, except those that have been designated as only state-enforceable.

(9 VAC 5-80-110 N)

B. Permit Expiration

This permit has a fixed term of five years. The expiration date shall be the date five years from the date of issuance. Unless the owner submits a timely and complete application for renewal to the Department consistent with the requirements of 9 VAC 5-80-80, the right of the facility to operate shall be terminated upon permit expiration.

1. The owner shall submit an application for renewal at least six months but no earlier than eighteen months prior to the date of permit expiration.
2. If an applicant submits a timely and complete application for an initial permit or renewal under this section, the failure of the source to have a permit or the operation of the source without a permit shall not be a violation of Article 1, Part II of 9 VAC 5 Chapter 80, until the Board takes final action on the application under 9 VAC 5-80-150.
3. No source shall operate after the time that it is required to submit a timely and complete application under subsections C and D of 9 VAC 5-80-80 for a renewal permit, except in compliance with a permit issued under Article 1, Part II of 9 VAC 5 Chapter 80.
4. If an applicant submits a timely and complete application under section 9 VAC 5-80-80 for a permit renewal but the Board fails to issue or deny the renewal permit before the end of the term of the previous permit, (i) the previous permit shall not expire until the renewal permit has been issued or denied and (ii) all the terms and conditions of the previous permit, including any permit shield granted pursuant to 9 VAC 5-80-140, shall remain in effect from the date the application is determined to be complete until the renewal permit is issued or denied.
5. The protection under subsections F 1 and F 5 (ii) of section 9 VAC 5-80-80 F shall cease to apply if, subsequent to the completeness determination made pursuant section 9 VAC 5-80-80 D, the applicant fails to submit by the deadline specified in writing by the Board any additional information identified as being needed to process the application.

(9 VAC 5-80-80 B, C and F, 9 VAC 5-80-110 D and 9 VAC 5-80-170 B)

C. Recordkeeping and Reporting

1. All records of monitoring information maintained to demonstrate compliance with the terms and conditions of this permit shall contain, where applicable, the following:
 - a. The date, place as defined in the permit, and time of sampling or measurements.
 - b. The date(s) analyses were performed.
 - c. The company or entity that performed the analyses.
 - d. The analytical techniques or methods used.
 - e. The results of such analyses.
 - f. The operating conditions existing at the time of sampling or measurement.
2. Records of all monitoring data and support information shall be retained for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.
3. The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than March 1 and September 1 of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:
 - a. The time period included in the report. The time periods to be addressed are January 1 to June 30 and July 1 to December 31.
 - b. All deviations from permit requirements. For purposes of this permit, deviations include, but are not limited to:
 - (1) Exceedance of emissions limitations or operational restrictions;
 - (2) Excursions from control device operating parameter requirements, as documented by continuous emission monitoring, periodic monitoring, or compliance assurance monitoring which indicates an exceedance of emission limitations or operational restrictions; or,
 - (3) Failure to meet monitoring, recordkeeping, or reporting requirements contained in this permit.

- c. If there were no deviations from permit conditions during the time period, the permittee shall include a statement in the report that “no deviations from permit requirements occurred during this semi-annual reporting period.”

(9 VAC 5-80-110 F)

D. Annual Compliance Certification

Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and DEQ no later than March 1 each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices. The compliance certification shall comply with such additional requirements that may be specified pursuant to §114(a)(3) and §504(b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

1. The time period included in the certification. The time period to be addressed is January 1 to December 31.
2. The identification of each term or condition of the permit that is the basis of the certification.
3. The compliance status.
4. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance.
5. Consistent with subsection 9 VAC 5-80-110 E, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.
6. Such other facts as the permit may require to determine the compliance status of the source.
7. One copy of the annual compliance certification shall be sent to EPA at the following address:

Clean Air Act Title V Compliance Certification (3AP00)
U. S. Environmental Protection Agency, Region III
1650 Arch Street
Philadelphia, PA 19103-2029.
(9 VAC 5-80-110 K.5)

E. Permit Deviation Reporting

The permittee shall notify the Director, Tidewater Region within four daytime business hours after discovery of any deviations from permit requirements which may cause excess emissions for more than one hour, including those attributable to upset conditions as may be defined in this permit. In addition, within 14 days of the discovery, the permittee shall provide a written statement explaining the problem, any corrective actions or preventative measures taken, and the estimated duration of the permit deviation. The occurrence should also be reported in the next semi-annual compliance monitoring report pursuant to General Condition VI.C.3. of this permit.

(9 VAC 5-80-110 F.2 and 9 VAC 5-80-250)

F. Failure/Malfunction Reporting

In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than four daytime business hours after the malfunction is discovered, notify the Director, Tidewater Region by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within 14 days of discovery provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. Owners subject to the requirements of 9 VAC 5-40-50 C and 9 VAC 5-50-50 C are not required to provide the written statement prescribed in this paragraph for facilities subject to the monitoring requirements of 9 VAC 5-40-40 and 9 VAC 5-50-40. When the condition causing the failure or malfunction has been corrected and the equipment is again in operation, the owner shall notify the Director, Tidewater Region.

(9 VAC 5-20-180 C)

G. Severability

The terms of this permit are severable. If any condition, requirement or portion of the permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of the permit.

(9 VAC 5-80-110 G.1)

H. Duty to Comply

The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act or the Virginia Air Pollution Control Law or both and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or, for denial of a permit renewal application.

(9 VAC 5-80-110 G.2)

I. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(9 VAC 5-80-110 G.3)

J. Permit Modification

A physical change in, or change in the method of operation of, this stationary source may be subject to permitting under State Regulations 9 VAC 5-80-50, 9 VAC 5-80-1100, 9 VAC 5-80-1790, or 9 VAC 5-80-2000 and may require a permit modification and/or revisions except as may be authorized in any approved alternative operating scenarios.

(9 VAC 5-80-190 and 9 VAC 5-80-260)

K. Property Rights

The permit does not convey any property rights of any sort, or any exclusive privilege.

(9 VAC 5-80-110 G.5)

L. Duty to Submit Information

1. The permittee shall furnish to the Board, within a reasonable time, any information that the Board may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Board copies of records required to be kept by the permit and, for information claimed to be confidential, the permittee shall furnish such records to the Board along with a claim of confidentiality.

(9 VAC 5-80-110 G.6)

2. Any document (including reports) required in a permit condition to be submitted to the Board shall contain a certification by a responsible official that meets the requirements of 9 VAC 5-80-80 G.

(9 VAC 5-80-110 K.1)

M. Duty to Pay Permit Fees

The owner of any source for which a permit under 9 VAC 5-80-50 through 9 VAC 5-80-300 was issued shall pay permit fees consistent with the requirements of 9 VAC 5-80-310 through 9 VAC 5-80-350. The actual emissions covered by the permit program fees for the preceding year shall be calculated by the owner and submitted to the Department by April 15 of each year. The calculations and final amount of emissions are subject to verification and final determination by the Department.

(9 VAC 5-80-110 H and 9 VAC 5-80-340 C)

N. Fugitive Dust Emission Standards

During the operation of a stationary source or any other building, structure, facility, or installation, no owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but are not limited to, the following:

1. Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
2. Application of asphalt, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which may create airborne dust; the paving of roadways and the maintaining of them in a clean condition;
3. Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty material. Adequate containment methods shall be employed during sandblasting or other similar operations;
4. Open equipment for conveying or transporting material likely to create objectionable air pollution when airborne shall be covered or treated in an equally effective manner at all times when in motion; and,
5. The prompt removal of spilled or tracked dirt or other materials from paved streets and of dried sediments resulting from soil erosion.

(9 VAC 5-40-90 and 9 VAC 5-50-90)

O. Startup, Shutdown, and Malfunction

At all times, including periods of startup, shutdown, soot blowing, and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(9 VAC 5-50-20 E)

P. Alternative Operating Scenarios

Contemporaneously with making a change between reasonably anticipated operating scenarios identified in this permit, the permittee shall record in a log at the permitted facility a record of the scenario under which it is operating. The permit shield described in 9 VAC 5-80-140 shall extend to all terms and conditions under each such operating scenario. The terms and conditions of each such alternative scenario shall meet all applicable requirements including the requirements of 9 VAC 5 Chapter 80, Article 1.

(9 VAC 5-80-110 J)

Q. Inspection and Entry Requirements

The permittee shall allow DEQ, upon presentation of credentials and other documents as may be required by law, to perform the following:

1. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.
2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.
3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.
4. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(9 VAC 5-80-110 K.2)

R. Reopening For Cause

The permit shall be reopened by the Board if additional federal requirements become applicable to a major source with a remaining permit term of three years or more. Such reopening shall be completed no later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to 9 VAC 5-80-80 F.

1. The permit shall be reopened if the Board or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
2. The permit shall be reopened if the administrator or the Board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.
3. The permit shall not be reopened by the Board if additional applicable state requirements become applicable to a major source prior to the expiration date established under 9 VAC 5-80-110 D.

(9 VAC 5-80-110 L)

S. Permit Availability

Within five days after receipt of the issued permit, the permittee shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to DEQ upon request.

(9 VAC 5-80-150 E)

T. Transfer of Permits

1. No person shall transfer a permit from one location to another, unless authorized under 9 VAC 5-80-130, or from one piece of equipment to another.
2. In the case of a transfer of ownership of a stationary source, the new owner shall comply with any current permit issued to the previous owner. The new owner shall notify the Board of the change in ownership within 30 days of the transfer and shall comply with the requirements of 9 VAC 5-80-200.
3. In the case of a name change of a stationary source, the owner shall comply with any current permit issued under the previous source name. The owner shall notify the Board of the change in source name within 30 days of the name change and shall comply with the requirements of 9 VAC 5-80-200.
(9 VAC 5-80-160)

U. Malfunction as an Affirmative Defense

1. A malfunction constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the requirements of paragraph 2 of this condition are met.
2. The affirmative defense of malfunction shall be demonstrated by the permittee through properly signed, contemporaneous operating logs, or other relevant evidence that show the following:
 - a. A malfunction occurred and the permittee can identify the cause or causes of the malfunction.
 - b. The permitted facility was at the time being properly operated.
 - c. During the period of the malfunction the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.
 - d. The permittee notified the board of the malfunction within two working days following the time when the emission limitations were exceeded due to the malfunction. This notification shall include a description of the malfunction, any steps taken to mitigate emissions, and corrective actions taken. The notification may be delivered either orally or in writing. The notification may be delivered by electronic mail, facsimile transmission, telephone, or any other method that allows the permittee to comply with the deadline. This notification fulfills the requirements of 9 VAC 5-80-110 F 2 b to report promptly deviations from permit requirements. This notification does not release the permittee from the malfunction reporting requirement under 9 VAC 5-20-180 C.

- e. In any enforcement proceeding, the permittee seeking to establish the occurrence of a malfunction shall have the burden of proof.

- f. The provisions of this section are in addition to any malfunction, emergency or upset provision contained in any applicable requirement.

(9 VAC 5-80-250)

V. Permit Revocation or Termination for Cause

A permit may be revoked or terminated prior to its expiration date if the owner knowingly makes material misstatements in the permit application or any amendments thereto or if the permittee violates, fails, neglects or refuses to comply with the terms or conditions of the permit, any applicable requirements, or the applicable provisions of 9 VAC 5 Chapter 80 Article 1. The Board may suspend, under such conditions and for such period of time as the Board may prescribe any permit for any of the grounds for revocation or termination or for any other violations of these regulations.

(9 VAC 5-80-190 C and 9 VAC 5-80-260)

W. Duty to Supplement or Correct Application

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrections. An applicant shall also provide additional information as necessary to address any requirements that become applicable to the source after the date a complete application was filed but prior to release of a draft permit.

(9 VAC 5-80-80 E)

X. Stratospheric Ozone Protection

If the permittee handles or emits one or more Class I or II substances subject to a standard promulgated under or established by Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, the permittee shall comply with all applicable sections of 40 CFR Part 82, Subparts A to F.

(40 CFR Part 82, Subparts A-F)

Y. Accidental Release Prevention

If the permittee has more, or will have more than a threshold quantity of a regulated substance in a process, as determined by 40 CFR 68.115, the permittee shall comply with the requirements of 40 CFR Part 68.

(40 CFR Part 68)

Z. Changes to Permits for Emissions Trading

No permit revision shall be required under any federally approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in this permit.

(9 VAC 5-80-110 I)

AA. Emissions Trading

Where the trading of emissions increases and decreases within the permitted facility is to occur within the context of this permit and to the extent that the regulations provide for trading such increases and decreases without a case-by-case approval of each emissions trade:

1. All terms and conditions required under 9 VAC 5-80-110, except subsection N, shall be included to determine compliance.
2. The permit shield described in 9 VAC 5-80-140 shall extend to all terms and conditions that allow such increases and decreases in emissions.
3. The owner shall meet all applicable requirements including the requirements of 9 VAC 5-80-50 through 9 VAC 5-80-300.

(9 VAC 5-80-110 I)